

United States Court of Appeals  
For the Eighth Circuit

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No. 12-1584

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United States of America

*Appellee*

v.

Alvin Hardy

*Appellant*

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Appeal from United States District Court  
for the Western District of Missouri

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Submitted: July 30, 2012

Filed: August 10, 2012

[Unpublished]

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Before MURPHY, ARNOLD, and SMITH, Circuit Judges.

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PER CURIAM.

Alvin Hardy appeals the district court's<sup>1</sup> order committing him to the custody of the Attorney General under 18 U.S.C. § 4246, and we affirm.

Section 4246 provides for the indefinite hospitalization of a person, against whom criminal charges were dismissed solely for reasons related to the mental condition of the person, if the person is found--by clear and convincing evidence after a hearing--to be suffering from a mental disease or defect such that his release would create a substantial risk of bodily injury to another person or serious damage to the property of another. See 18 U.S.C. § 4246(a)-(d). In this case, the district court found that commitment was appropriate because state placement was unavailable and the mental health professionals who examined Hardy unanimously believed that his mental illness and history of noncompliance with medication, with resulting paranoid and threatening behavior, would create a risk of dangerousness within the meaning of section 4246 if Hardy were unconditionally released. We hold that this finding is not clearly erroneous. See United States v. Williams, 299 F.3d 673, 676-77 (8th Cir. 2002) (standard of review). We note that Hardy's custodians are under an ongoing obligation to prepare annual reports concerning his mental condition and the need for his continued hospitalization, see 18 U.S.C. § 4247(e)(1)(B), and to exert reasonable efforts to place him in a suitable state facility, see 18 U.S.C. § 4246(d).

Accordingly, the judgment is affirmed, and counsel's motion to withdraw is granted.

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<sup>1</sup>The Honorable Richard E. Dorr, United States District Judge for the Western District of Missouri, adopting the report and recommendations of the Honorable James C. England, United States Magistrate Judge for the Western District of Missouri.